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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,577	12/22/2000	Julio A. Pena-Nieves	41EB-1011	2684

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EXAMINER

LE, JOHN H

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,577

Applicant(s)

PENA-NIEVES ET AL.

Examiner

John H Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. Correction is required. See 37CFR 1.72.

2. The abstract of the disclosure is objected to because of the following informalities:

Line 3, "distribut9ion" should change to --distribution--.

Correction is required.

Claim Objections

3. Claim 10 is objected to because of the following informalities:

Claim 1, line 2, "a a" should be changed to --a--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 7-9, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bisdikian et al. (USP 6,205,413) in view of Kutzberg et al. (USP 5,710,700).

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Regarding claim 1 and 8, Bisdikian et al. teach a network monitoring and testing system that will reflect a subscriber's perception of the quality of provided services (Col.1, lines 65-67), said system comprising: a virtual subscriber, which read on a device; and web-server, which read on a server, the server connected to said device and configured to receive information from a user via said device (e.g. Col.2, lines 1-5, 52-55), said server further configured to: perform statistical tests on the received information; generate a report relating to the statistical tests; and display the information related to the report (e.g. Col.2.1-10, Col.5, lines 19-50).

Regarding claims 7 and 15, Bisdikian et al. teach server further configured to receive the information from the user via a graphical user interface (e.g. Col.1, lines 49-53, Col.3, lines 30-35).

Regarding claim 9, Bisdikian et al. teach server further configured to download to the user the information related to the report (e.g. Col.3, lines 30-35).

Regarding claim 16, Bisdikian et al. teach device configured to be a server for a network of customer devices (e.g. Col.4, lines 1-8).

Regarding claim 17, Bisdikian et al. teach said server and said device are connected via a network (e.g. Col.2, lines 58-66).

Regarding claim 18, Bisdikian et al. teach said network is one of a wide area network, a local area network (e.g. Col.3, lines 1-2) and the Internet (e.g. Col.2, lines 44-45).

Bisdikian et al. fail to teach information is reliability information.

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Kutzberg et al. teach the distribution tests are performed to identify the data underlying distributions and, possibly, to determine need for transformations to exhibit proper statistical properties, wherein data is reliability data (e.g. Col.5, lines 30-39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the distribution tests are performed to identify the data underlying distributions and, possibly, to determine need for transformations to exhibit proper statistical properties, wherein data is reliability data as taught by Kutzberg et al. in a network monitoring and testing system of Bisdikian et al. for the purpose of providing quality analysis and improvement action (Kutzberg et al., Col.2, lines 10-11).

6. Claims 2-3 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bisdikian et al. (USP 6,205,413) in view of Kutzberg et al. (USP 5,710,700) as applied to claims 1 and 8 above, and further in view of Wicks et al. (USP 5,499,030).

Regarding claims 2-3 and 10-11, the combination of Bisdikian et al. and Kutzberg et al. discussed supra, discloses the claimed invention except server further configured to generate a plot of the Weibull cumulative probability function of cycles.

Wicks et al. teach a plot of detection probability versus Weibull shape parameter (e.g. Col.8, lines 5-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a plot of detection probability versus Weibull shape parameter as taught by Wicks et al. in a network monitoring and testing system of Bisdikian et al. in view of Kutzberg et al. for the purpose of providing advances in

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artificial intelligence and expert systems technology for the development of data analysis and information (signal) processors (Wicks et al., Abstract).

7. Claims 4-5 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bisdikian et al. (USP 6,205,413) in view of Kutzberg et al. (USP 5,710,700) as applied to claims 1 and 8 above, and further in view of Patel et al. (USP 6,405,108).

Regarding claims 4-5 and 12-13, the combination of Bisdikian et al. and Kutzberg et al. discussed supra, discloses the claimed invention except server further configured to generate a Pareto histogram of failure mode.

Patel et al. teach the failure mode analysis may be conducted on previously recorded field data so as to identify high-level failure modes of the respective subsystem. This step conveniently allows a team to focus efforts on the failure modes that offer a substantial potential for improvement by the use of well-known tools, such as Pareto charts and the like (Col.5, lines 2-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a Pareto histogram of failure mode as taught by Patel et al. in a network monitoring and testing system of Bisdikian et al. in view of Kutzberg et al. for the purpose of providing the process allows for conducting a failure mode analysis for a respective subsystem so as to identify target failure modes of the subsystem and/or collecting expert data relative to the respective subsystem (Patel et al., Col.2, lines 30-34).

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8. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bisdikian et al. (USP 6,205,413) in view of Kutzberg et al. (USP 5,710,700) as applied to claims 1 and 8 above, and further in view of McGee et al. (USP 6,643,613).

Regarding claims 6 and 8, the combination of Bisdikian et al. and Kutzberg et al. discussed supra, discloses the claimed invention except report relating to the statistical tests further comprises the step of generating a control chart.

McGee et al. teach step of generating a control chart (Col.10, lines 31-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include step of generating a control chart as taught by McGee et al. in a network monitoring and testing system of Bisdikian et al. in view of Kutzberg et al. for the purpose of providing the capability to discern, group, and highlight performance information that facilitates the efficient operation and control of the monitored system (McGee et al., Col.6, lines 3-6).

Other Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Arai et al. (USP 5,757,659) disclose a report on chemical analysis test results on-line via a network, the research and development section can immediately perform data processing such as statistical analysis and provide analysis data having a high reliability.

Contact Information

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John H. Le whose telephone number is (703) 605-4361.

The examiner can normally be reached on 9:00 - 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (703) 308-3126. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

John H. Le

Patent Examiner-Group 2863

December 11, 2003


John Barlow
Supervisory Patent Examiner
Technology Center 2800